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China, People's Republic of

Food and Agricultural Import Regulations and Standards

Fisheries Law

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Report Highlights:

This is an UNOFFICIAL English translation of the People's Republic of China *Fisheries Law* and should be used as a guide only. Exporters should carefully discuss regulations and their application with Chinese importers to ensure that their interpretation of the regulations is accurate.

Includes PSD changes: No

Includes Trade Matrix: No

Annual Report

Beijing [CH1], CH

This report was prepared by the Office of Agricultural Affairs of the USDA/Foreign Agricultural Service in Beijing, People's Republic of China for U.S. exporters of domestic food and agricultural products. While every possible care was taken in the preparation of this report, information provided may not be completely accurate either because policies have changed since its preparation, or because clear and consistent information about these policies was not available. It is highly recommended that U.S. exporters verify the full set of import requirements with their foreign customers, who are normally best equipped to research such matters with local authorities, before any goods are shipped. FINAL IMPORT APPROVAL OF ANY PRODUCT IS SUBJECT TO THE IMPORTING COUNTRY'S RULES AND REGULATIONS AS INTERPRETED BY BORDER OFFICIALS AT THE TIME OF PRODUCT ENTRY.

Summary

This Law was revised and adopted on October 31, 2000. The scope of this Law includes improving the management of China's fishery resources, development of the aquaculture and fishing industry, and enforcement measures over China's fishing and aquaculture resources. Articles sixteen, seventeen, and forty-four address import and export of fry or fingerling. Article twenty-six address the inspection of imported fishing vessels. The Administrative Department for Fisheries under the State Council has statutory authority over this law.

Fisheries Law

Adopted at the 14th Meeting of the Standing Committee of the Sixth National People's Congress on January 20, 1986. Amended in accordance with the Decision Regarding Revision of the Fisheries Law of the People's Republic of China and adopted at the 18th Meeting of the Standing Committee of the Ninth National People's Congress on October 31, 2000.

Chapter One: General Provisions

Article 1: This Law enacted for the purpose of enhancing protection, increase, development and rational utilization of fishery resources; developing artificial cultivation; ensuring fishery workers' lawful rights and interests; and boosting fishery production, so as to meet the needs of socialist construction and the people's needs.

Article 2: All productive activities of fisheries, such as aquaculture and catching or harvesting of aquatic animals and plants, in the inland waters, tidal flats, territorial waters and exclusive economic zones of the People's Republic of China and in all other sea areas under the jurisdiction of the People's Republic of China shall be conducted in accordance with this Law.

Article 3: In fishery production, the State applies the principle under which aquaculture is primary; aquaculture, fishing, and processing are developed simultaneously, measures are adopted in light of local conditions, and priority is given to different pursuits.

People's governments at various levels shall include fishery production in their economic development plans and take measures to improve the overall planning and comprehensive utilization of water areas.

Article 4: The State encourages research in fishery science and technology and extension of advanced technology in order to raise the level of fishery science and technology.

Article 5: People's governments at various levels shall give moral encouragement or material awards to units and individuals that make outstanding contributions to the increase and protection of fishery resources, to the development of fishery production, and to research in fishery science and technology, etc.

Article 6: The administrative department for fisheries under the State Council is in charge of fisheries affairs throughout the country. The administrative departments for fisheries under the local people's governments at or above the county level are in charge of fisheries affairs in their respective administrative areas. These departments may establish fisheries authorities in important fishing areas and fishing ports.

The administrative departments for fisheries under the people's governments at or above the county level and the fisheries authorities subordinate to the departments may appoint fishery inspectors. Such inspectors shall carry out the tasks assigned to them by the said departments and authorities.

Article 7: In its supervision over fisheries, the State applies the principle of unified leadership and decentralized administration at different levels.

With the exception of those sea areas that the State Council places under the supervision of the administrative department for fisheries or of the fisheries authorities subordinate to the department and those fishing grounds endowed with special fishery resources designated as such by the State Council, marine fisheries shall be subject to supervision by the administrative departments for fisheries under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government that are contiguous to sea areas.

Fisheries in rivers and lakes shall be subject to supervision by the administrative departments for fisheries under the people's governments at or above the county level in accordance with administrative divisions. With regard to fisheries that straddle more than one administrative division, administrative measures shall be formulated by relevant people's governments at or above the county level through consultation, or such fisheries shall be subject to supervision by the administrative department for fisheries under the people's government at the next higher level or by the fisheries authority subordinate to the department.

Article 8: Foreigners and foreign fishing vessels that wish to enter the waters under the jurisdiction of the People's Republic of China to engage in fishery production or conduct surveys of fishery resources shall be subject to approval by the competent department under the State Council and shall observe the provisions of this Law and of other relevant laws and regulations of the People's Republic of China. If the foreigners and vessels belong to countries that have signed relevant treaties or agreements with the People's Republic of China, the matters shall be handled in accordance with the treaties or agreements.

State authorities for fisheries and authorities for fishing ports shall exercise the power of administration and supervision over external relations pertaining to fisheries and fishing ports.

Article 9: No administrative department for fisheries, or any fisheries authority subordinate to it, or any staff member of the department or authority may take part in or engage in fishery production or business.

Chapter Two: Aquaculture

Article 10: The State encourages units owned by the whole people, units owned by the collective, and individuals to make full use of water areas and tidal flats that are united to aquaculture department.

Article 11: The State makes unified plans for the use of water areas and designates water areas and tidal flats that can be used for aquaculture. Any unit or an individual that wishes to use the water areas or tidal flats owned by the whole people and designated for aquaculture according to national plans shall apply to the administrative department for fisheries under the local people's government at or above the county level. An aquaculture permit shall be issued after examination by the people's government concerned, allowing the applicant to use certain water areas or tidal for aquaculture. Specific measures for examining and issuing aquaculture permits shall be formulated by the State Council.

The water areas and tidal flats owned by the collective or by the whole people but used by agricultural collective economic organizations may be contracted out to individuals or collectives for aquaculture.

Article 12: When issuing aquaculture permits, the local people's governments at or above the county level shall give priority to local fishery workers.

Article 13: Where a dispute arises between parties over the use of water areas or tidal flats designated for aquaculture according to national plans, it shall be handled in accordance with the procedures prescribed by relevant laws. Pending settlement of the dispute, no party to the dispute may disrupt aquacultural production.

Article 14: If water areas or tidal flats owned by the collective are requisitioned for national construction, the matter shall be handled in accordance with the relevant provisions of the Land Administration Law of the People's Republic of China.

Article 15: People's governments at or above the county level shall take measures to protect with increased efforts the bases for production of commodity fish and key water areas for aquaculture in the suburbs of cities.

Article 16: The State encourages and supports seed selection, breeding, and propagation of fine varieties of aquatic species. The propagation of new varieties of aquatic species. The propagation of new varieties of aquatic species shall be subject to verification by the National

Verification Commission for Pedigree and Fine Varieties of Aquatic Species and approval by the administrative department for fisheries under the State Council.

The import and export of fry and fingerling of aquatic animals shall be subject to examination and approval by the administrative department under the State Council or such departments under the people's governments of provinces, autonomous regions or municipalities directly under the Central Government.

The production of fry and fingerling of aquatic animals shall be subject to examination and approval by the administrative departments under the people's governments at or above the county level, except where fishery workers breed fry and fingerling of aquatic animals for their own use.

.Article 17: The fry and fingerling of aquatic animals for import or export shall undergo quarantine in order to prevent the spread of diseases in or out of the territory. Quarantine shall be conducted in accordance with the quarantine laws and administrative regulations concerning the entry and exit animal and plant quarantine.

Introduction of trans-genic fry and fingerling of aquatic animals shall undergo safety evaluation, the concrete administrative work shall be undertaken in accordance with the relevant regulations of the State Council.

Article 18: The administrative departments for fisheries under the people's governments at or above the county level shall provide energetic technological guidance for aquaculture and improve their work for the prevention and treatment of diseases in this regard.

Article 19: Noxious and harmful bait and feed are prohibited in aquaculture production.

Article 20: Aquacultural workers shall protect the ecological environment of the waters by scientifically defining the density of aquaculture, and through rational feeding and rational application of fertilizer and use of medicines, and contamination of the waters therefrom is not allowed.

Chapter Three: Fishing

Article 21: The State takes measures in the fields of finance, loan, and taxation to encourage and support the development of pelagic fishing and prepares manpower for fishing in inland waters and for offshore fishing in light of the allowable catch of the fishery resources.

Article 22: Following the principle of keeping the allowable catch lower than the increase of the fishery resources, the State determines the total allowable catch of the fishery resources and applies a quota system for fishing. The administrated department for fisheries under the State Council is responsible for arranging surveys and assessment of the fishery resources to provide a scientific basis for the implementation of the quota system for fishing. The total allowable catch in the inland waters, territorial seas, exclusive economic zones of the People's Republic of China and other waters under its jurisdiction shall be determined by the administrative department for fisheries under the State Council and allocated by the authorities of higher levels to those at lower levels after approval by the State Council. The total quotas for fishing in key rivers and lakes designated as such by the State shall be determined by the people's governments of relevant provinces, autonomous regions, and municipalities directly under the Central Government, or through consultation among them, before it is allocated by the authorities at higher levels to those at lower levels. The total fishing quotas shall be allocated in adherence to the principles of fairness and impartiality. The means and results of allocation shall be made known to the public and shall be subject to supervision.

The administrative department for fisheries under the State Council and such departments under the people's governments of provinces, autonomous regions and municipalities directly under the Central Government shall strengthen their supervision over and inspection the implementation of the quota system for fishing. For those who exceed the quotas allocated by the authorities a the next higher level, their quotas for the following year shall be reduced accordingly.

Article 23: The State applies a license system for fishing.

Fishing licenses for marine fishing with large trawlers and purse seines and for fishing in the jointly managed fishery zones defined in the agreements concluded between the People's Republic of China and the countries concerned or on the high seas shall be granted upon approval by the administrative department for fisheries under the State Council. Other fishing licenses shall be granted upon approval by the administrative department for fisheries under the local

people's governments at or above the county level. However, the sizes for vessels and fishing gear specified in the fishing licenses issued for marine fishing may not exceed the state fixed control sizes for vessels and fishing gear. Specific measures in this respect shall be formulated by the people's governments or provinces, autonomous regions, and municipalities directly under the Central Government.

No fishing licenses may be traded, leased, or transferred by other means; nor altered, forged or adulterated. Those who wish to engage in fishing in the waters under the jurisdiction of other states shall be subject to approval by the administrative department for fisheries under the State Council and shall observe the relevant treaties and agreements signed or acceded to by the People's Republic of China and the laws of the states concerned.

Article 24: A fishing license can only be issued when the following requirements are met:

1. Having the fishing vessel inspection certificate;
2. Having the fishing vessel registry certificate; and
3. Meeting the other requirements laid down by the administrative department for fisheries under the State Council.

The fishing quotas in the fishing license issued by the administrative department for fisheries under the local people's governments at or above the county level shall commensurate with the fishing quotas allocated by the said departments at the next higher level of the people's government.

Article 25: Units and individuals engaged in fishing shall conduct their operations in conformity with the type of operation, location, time limit, amount of fishing gear and the fishing quota, as specified in their licenses. They shall also abide by the regulations on protection of fishery resources. Large and medium-sized vessels shall fishing manifests.

Article 26: All fishing vessels that are built, re-built, purchased, or imported shall be examined and inspected by fishing vessel inspection departments before they are launched for operation. Specific administrative measures, in this respect, shall be formulated by the State Council.

Article 27: Fishing ports shall be built in compliance with the unified plans of the State, and the principle of whoever invests benefits shall be applied. Local people's governments at or above the county level shall exercise strict supervision over the fishing ports situated within their administrative areas and maintain normal order in the ports.

Chapter Four: Increase and Protection of Fishery Resources

Article 28: The administrative departments for fisheries under the people's governments at or above the county level shall work out overall plans and take measures to increase the fishery resources in the fishery waters under their jurisdiction. They may collect fees from the enterprises and individuals profiting from the use of such waters and devote the money thus collected to the increase and protection of the fishery resources. Measures for collecting such fees shall be formulated by the administrative department for fisheries together with the department of finance under the State Council and shall go into effect upon approval by the State Council.

Article 29: The State protects the aquatic species and their living environment and establishes aquatic species protection zones in the main areas where aquatic species of high economic and hereditary breeding value grow and propagate. No unit or individual may engage in fishing in the protection zones without the approval of the administrative department for fisheries under the State Council.

Article 30: The use of explosives, poisons, electricity and any other means in fishing that impairs the fishery resources is prohibited. The manufacture, sale and use of banned fishing gear are prohibited. Fishing in restricted fishing areas and during closed seasons is prohibited. The use of fishing nets with mesh smaller than the specified minimum size is prohibited. The proportion of juvenile fish in a catch may not exceed the specified level. The sale of catch illegally harvested in the restricted fishing areas and during closed seasons is prohibited.

The administrative department for fisheries under the State Council and such departments under the people's governments at or above the county level shall designate species for special protection, and specify the allowable amount for fishing of such species, the restricted fishing areas and closed seasons, the fishing gear and methods to be banned or restricted, the minimum mesh sizes, as well as other measures for the protection of the fishery resources.

Article 31: Catching fry and fingerling of aquatic animals of important economic value is prohibited. Catching fry and fingerling of important economic value or spawning aquatic animals under protection for artificial breeding or for other special purposes shall be subject to approval by the administrative department for fisheries under the State Council or such departments under the people's governments of provinces, autonomous regions, or municipalities directly under the Central Government, and it shall be conducted in the designated areas and periods of time and strictly in accordance with the quotas allocated.

Measures shall be adopted to protect fry and fingerling of aquatic animals when channeling or using water from water areas that are specially designated for producing such fry and fingerling.

Article 32: Where sluices or dams are to be built on the migration routes of fish, shrimp or crabs which will seriously impair the fishery resources, the construction units shall build fishpass facilities or adopt other remedial measures.

Article 33: For water bodies that are used for fisheries and that also serve the purposes of water storage, regulation and irrigation, the competent department concerned shall fix the lowest water level required for fisheries.

Article 34: Reclaiming land from lakes is prohibited. Without the approval of the people's governments at or above the county level, no tidal flats may be enclosed for cultivation, and no water areas that are used as major fry and fingerling producing bases or aquaculture areas may be enclosed for cultivation.

Article 35: Where underwater explosion, exploration, or construction that will seriously impair the fishery resources is to be conducted, the construction unit shall consult in advance with the administrative department for fisheries under the relevant people's government at or above the county level and take measures to prevent or minimize the damage to fishery resources. Where losses are caused to fishery resources, the relevant people's government at or above the county level shall order the construction unit to pay compensation.

Article 36: People's governments at all levels shall take measures to protect and improve the ecological environment of fishery waters and prevent pollution.

The ecological environment of fishery waters shall be supervised and regulated and fishery pollution shall be investigated and handled in accordance with the relevant provisions of the Marine Environmental Protection Law of the People's Republic of China and the Water Pollution Prevention Law of the People's Republic of China.

Article 37: The State maintains special protection of the rare and endangered aquatic wild animals such as white-flag dolphins to prevent them from extinction. Killing and injuring of important aquatic wild animals protected by the State is prohibited. Where it is necessary to catch such animals for purposes of scientific research, taming and propagation, exhibition or for other special purposes, the matter shall be dealt with in accordance with the provisions of the Wild Animal Protection Law of the People's Republic of China.

Chapter Five: Legal Liability

Article 38: Where a person uses explosives, poisons, electricity, or other fishing means that impairs fishery resources; engages in fishing in violation of the regulations on restricted fishing areas and closed seasons; uses banned fishing gear and methods or fishing nets with mesh smaller than the minimum size; or catches juvenile fish in proportion that exceeds the specified level, his catch and illegal gains therefrom shall be confiscated and he shall be fined not more than 50,000 RMB. If the circumstances are serious, his fishing gear shall be confiscated and his fishing license revoked. If the circumstances are especially serious, his fishing vessel may be confiscated. If a crime is committed, he shall be investigated for criminal responsibility in accordance with the law.

Where illegally harvested catch is sold in restricted fishing areas and during closed seasons, the administrative department for fisheries under the people's government at or above the county level shall investigate and handle the case without delay.

Where a person manufactures or sells banned fishing gear, the illegally manufactured and sold fishing gear and illegal gains therefrom shall be confiscated and he shall also be fined not more than 10,000 RMB.

Article 39: Anyone who poaches for or seizes another person's aquatic products, or undermines another person's water bodies or facilities for aquaculture shall be ordered to make amends and may be fined not more than 20,000 RMB. If he causes losses to another person, he shall bear the responsibility of compensation. If a crime is constituted, he shall be investigated for criminal responsibility in accordance with the law.

Article 40: Anyone who uses the waters or tidal flats owned by the whole people for aquaculture and lets the waters or tidal flats lie unused for a year without justifiable reasons shall be ordered by the authority that issues the aquaculture permit to develop and utilize the waters and tidal flats within a specified time. If he fails to do so at the expiration of the time limit, his aquaculture permit shall be revoked and he may also be fined not more than 10,000 RMB.

Anyone who has not obtained an aquaculture permit legally but engages in aquacultural production in the waters owned by the whole people shall be ordered to stop the action and apply for an aquaculture permit or demolish the aquaculture facilities within a specified time.

Anyone who has not obtained an aquaculture permit legally but engages in aquacultural production in the waters owned by the whole people beyond the scope specified in the permit, thus obstructing navigation or flood diversion, shall be ordered to demolish the aquaculture facilities within a specified time and may also be fined not more than 10,000 RMB.

Article 41: Where a person conducts fishing without a legally obtained fishing license, his catch and illegal gains therefrom shall be confiscated and he shall be fined not more than 100,000 RMB. If the circumstances are serious, his fishing gear and fishing vessel may also be confiscated.

Article 42: Where a person conducts fishing in violation of the type of operation, location, time limit and amount of fishing gear specified in the license granted to him, his catch and illegal gains therefrom shall be confiscated and he may also be fined not more than 50,000 RMB. If the circumstances are serious, his fishing gear may also be confiscated and his fishing license revoked.

Article 43: Where a person alters, trades in, leases or transfers fishing licenses by other means, his illegal gains therefrom shall be confiscated and his fishing license revoked and he may also be fined not more than 10,000 RMB. Where a person forges, adulterates, or trades in fishing licenses, if the case constitutes a crime, he shall be investigated for criminal responsibility in accordance with the law.

Article 44: Where a person illegally produces, imports or exports fry or fingerling of aquatic animals, the fry and fingerling of aquatic animals and his illegal gains therefrom shall be confiscated and he shall also be fined not more than 50,000 RMB.

Where a person trades in fry and fingerling of aquatic animals without verification and approval, he shall be ordered to discontinue the trade immediately, his illegal gains therefrom shall be confiscated and he may also be fined not more than 50,000 RMB.

Article 45: Where a person engages in fishing in an aquatic gene-plasm resources protection zone without approval, he shall be ordered to discontinue fishing immediately, his catch and fishing gear shall be confiscated and he may also be fined not more than 10,000 RMB.

Article 46: Where a foreigner or foreign fishing vessel, in violation of the provisions of this Law, enters the waters under the jurisdiction of the People's Republic of China to engage in aquaculture or conduct survey of fishery resources, he or it shall be ordered to leave the waters or be driven out, the catch or fishing gear may be confiscated and a fine of not more than 500,000 RMB may also be imposed. If the circumstances are serious, the fishing vessel may be confiscated. If a crime is constituted, criminal responsibility shall be investigated in accordance with the law.

Article 47: Anyone who damages the ecological environment of the fishery waters or causes fishery pollution shall be investigated for legal liability in accordance with the Marine Environmental Protection Law of the People's Republic of China and the Water Pollution Prevention Law of the People's Republic of China.

Article 48: The administrative penalties imposed in accordance with the provisions of this Law shall be decided on by the administrative departments for fisheries under the people's governments at or above the county level or the fisheries authorities subordinate to the them, except where it is otherwise provided for in this Law.

In cases where fishing is conducted in violation of the provisions on restricted fishing areas and closed seasons, or with banned fishing gear or methods, or without fishing licenses, where the facts are obvious and the evidence is adequate, and where administrative penalty cannot be decided or imposed according to legal procedures on the spot, the officers enforcing law on the sea may temporarily seize the fishing license, fishing gear or fishing vessel. Administrative penalty shall be decided and imposed after returning to port.

Article 49: Where the administrative department for fisheries, or the fisheries authority subordinate to it, or a staff member of the department or authority, in violation of the provisions of this Law, issues fishing licenses, allocates fishing

quotas or engages in fishery production or business, or commits other acts, such as neglecting its or his duty by failing to perform its or his legal obligations, abusing its or his power, engaging in mal-practices for private gains, it or he shall be given administrative sanction. If the case constitutes a crime, criminal responsibility shall be investigated in accordance with the Law.

Chapter Six: Supplementary Provisions

Article 50: This Law shall be effective from July 1, 1986. (The above has been revised to accurately reflect revisions to the Law as it was amended October 31, 2000).